

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
NOV 18 2005
DAVID J. MALAND, CLERK
BY
DEPUTY

MAHMOOD LODHI

§

VS.

§

CIVIL ACTION NO. 4:03cv387

UNITED STATES MARSHAL SERVICE, §
ET AL.

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORTS AND RECOMMENDATIONS

Plaintiff Mahmood Lodhi, an inmate in the Federal Medical Center in Fort Worth, Texas, proceeding *pro se*, brought this Federal Tort Claims action against the United States Marshal's Service, the United States of America, the Denton County Sheriff's Department, the Denton County Sheriff, and three unknown defendants.

The court referred this matter to the Honorable Don D. Bush, United States Magistrate Judge, at Sherman, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends that Plaintiff's claims against defendants Denton County Sheriff's Department, the Denton County Sheriff, and unknown defendants be dismissed as barred by limitations and for failure to effect service.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law.

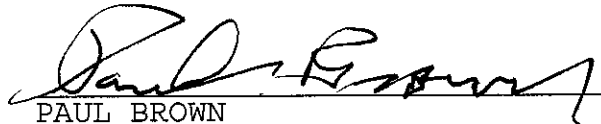
See FED. R. Civ. P. 72(b). After careful consideration, the court concludes Plaintiff's objections are without merit.

Plaintiff complains of spider bites which occurred on October 18, 2000 and being forced to miss prayer service on November 3, 2000. However, Plaintiff did not file his complaint until October 20, 2003. Accordingly, Plaintiff's complaint is barred by the applicable two-year limitations period. *Burrell v. Newsome*, 883 F.2d 416, 419 (5th Cir. 1989); *Ali v. Higgs*, 892 F.2d 438, 439 (5th Cir. 1990); *Brown v. Nationsbank Corp.*, 188 F.3d 579, 590 (5th Cir. 1999); and 28 U.S.C. § 2401(b). Further, plaintiff failed to effect service within the time limits provided by the rules.

O R D E R

Accordingly, Plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the reports of the Magistrate Judge are **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

SIGNED this 15 day of November, 2005.


PAUL BROWN
UNITED STATES DISTRICT JUDGE